

Executive Summary – Enforcement Matter – Case No. 42660
Crosswinds I Partnership, Ltd.
RN105628549
Docket No. 2011-1813-EAQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

TACARA, located northwest of State Highway 281 North and Stone Oak Parkway, San Antonio, Bexar County

Type of Operation:

Commercial development property

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: March 23, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$13,750

Amount Deferred for Expedited Settlement: \$2,750

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$11,000

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: Yes

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

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Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: January 10 and 13, 2011

Date(s) of NOE(s): September 7, 2011

Violation Information

1. Failed to obtain approval of a modification to an approved Water Pollution Abatement Plan ("WPAP") prior to initiating construction over the Edwards Aquifer Recharge Zone. Specifically, the Phase I project proposed in the modification application was under construction and the proposed Vortechs® units had been constructed and installed prior to approval [30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.4(j)(1), and WPAP No. 13-08091501, Standard Conditions No. 6].

2. Failed to maintain the approved best management practices ("BMPs") and measures to prevent pollutants from entering sensitive features within the Edwards Aquifer Recharge Zone. Specifically, the vegetative buffer had been cleared away for the construction of the retaining wall allowing sediment to enter Feature S-5 [30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(4)(B)(iii), and WPAP No. 13-08091501, Standard Conditions No. 8].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following corrective measures at the Site:

- a. By October 26, 2010, submitted a WPAP Modification Application, which includes the Restoration and Stabilization Plan, for WPAP No. 13-08091501 to the TCEQ and on March 1, 2011, the WPAP Modification was approved; and
- b. By April 29, 2011, removed sediment from Feature S-5, installed silt fencing, and began seeding grass to establish vegetative cover within the disturbed areas.

Technical Requirements:

The Order will require the Respondent to:

- a. Within 30 days:
 - i. Establish vegetative cover in the buffer area with a density of at least 80%;
 - ii. Remove silt fencing once vegetative cover has been established; and
 - iii. Obtain written certification from a Texas Licensed Professional Engineer that the permanent BMPs or measures were constructed as designed in the WPAP.

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b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: Heather Brister, Enforcement Division,
Enforcement Team 1, MC R-09, (254) 761-3034; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Darren B. Casey, Managing Partner, Crosswinds I Partnership, Ltd., 814
Arion Parkway, Suite 200, San Antonio, Texas 78216
Greg Gibson, Director of Development Services, Crosswinds I Partnership, Ltd., 814
Arion Parkway, Suite 200, San Antonio, Texas 78216
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	12-Sep-2011	Screening	29-Sep-2011	EPA Due	
	PCW	29-Sep-2011				

RESPONDENT/FACILITY INFORMATION

Respondent	Crosswinds I Partnership, Ltd.		
Reg. Ent. Ref. No.	RN105628549		
Facility/Site Region	13-San Antonio	Major/Minor Source	Major

CASE INFORMATION

Enf./Case ID No.	42660	No. of Violations	2
Docket No.	2011-1813-EAQ-E	Order Type	1660
Media Program(s)	Edwards Aquifer	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	Heather Brister
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **0.0%** Enhancement **Subtotals 2, 3, & 7** **\$0**

Notes: No adjustment for compliance history.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,250**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts: \$238
Approx. Cost of Compliance: \$13,500
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$13,750**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes:

Final Penalty Amount **\$13,750**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$13,750**

DEFERRAL **20.0%** Reduction **Adjustment** **-\$2,750**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes:

Deferral offered for expedited settlement.

PAYABLE PENALTY **\$11,000**

Screening Date 29-Sep-2011

Docket No. 2011-1813-EAQ-E

PCW

Respondent Crosswinds I Partnership, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 42660

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105628549

Media [Statute] Edwards Aquifer

Enf. Coordinator Heather Brister

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

No adjustment for compliance history.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 0%

Screening Date 29-Sep-2011

Docket No. 2011-1813-EAQ-E

PCW

Respondent Crosswinds I Partnership, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 42660

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105628549

Media [Statute] Edwards Aquifer

Enf. Coordinator Heather Brister

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 213.4(a)(1) and 213.4(j)(1), and Water Pollution Abatement Plan ("WPAP") No. 13-08091501, Standard Conditions No. 6

Violation Description

Failed to obtain approval of a modification to an approved WPAP prior to initiating construction over the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on January 10 and 13, 2011. Specifically, the Phase 1 project proposed in the modification application was under construction and the proposed Vortechs® units had been constructed and installed prior to approval.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 25%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 2

50 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Two monthly events are recommended from the investigation date (January 10, 2011) to the compliance date (March 1, 2011).

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes The Respondent achieved compliance by March 1, 2011.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$68

Violation Final Penalty Total \$3,750

This violation Final Assessed Penalty (adjusted for limits) \$3,750

Economic Benefit Worksheet

Respondent Crosswinds I Partnership, Ltd.
Case ID No. 42660
Req. Ent. Reference No. RN105628549
Media Edwards Aquifer
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs	\$10,000	10-Jan-2011	1-Mar-2011	0.14	\$68	n/a	\$68
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to develop and submit a modified WPAP. The date required is the investigation date and the final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$68

Screening Date 29-Sep-2011

Docket No. 2011-1813-EAQ-E

PCW

Respondent Crosswinds I Partnership, Ltd.

Policy Revision 2 (September 2002)

Case ID No. 42660

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN105628549

Media [Statute] Edwards Aquifer

Enf. Coordinator Heather Brister

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 213.4(k) and 213.5(b)(4)(B)(iii), and WPAP No. 13-08091501, Standard Conditions No. 8

Violation Description

Failed to maintain the approved best management practices ("BMPs") and measures to prevent pollutants from entering sensitive features within the Edwards Aquifer Recharge Zone, as documented during an investigation conducted on January 10 and 13, 2011. Specifically, the vegetative buffer had been cleared away for the construction of the retaining wall allowing sediment to enter Feature S-5.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Harm Moderate	Minor
Release Actual		X	
Potential			

Percent 50%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Human health or the environment has been exposed to significant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$5,000

\$5,000

Violation Events

Number of Violation Events 2

109 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$10,000

Two quarterly events are recommended from the investigation date (January 10, 2011) to the date Feature S-5 was cleaned out and BMP's were implemented (April 29, 2011).

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	X	(mark with x)

Notes The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$10,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$170

Violation Final Penalty Total \$10,000

This violation Final Assessed Penalty (adjusted for limits) \$10,000

Economic Benefit Worksheet

Respondent Crosswinds I Partnership, Ltd.
Case ID No. 42660
Reg. Ent. Reference No. RN105628549
Media Edwards Aquifer
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal	\$1,500	10-Jan-2011	29-Apr-2011	0.30	\$22	n/a	\$22
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	10-Jan-2011	30-Jun-2012	1.47	\$147	n/a	\$147

Notes for DELAYED costs

Estimated cost to clean out Feature S-5 and implement BMPs; and to establish a vegetative cover in the buffer area with a density of at least 80%, remove silt fencing, and to obtain written certification from a Texas Licensed Professional Engineer that approved Restoration and Stabilization Plans demonstrates compliance. Date required is the investigation date and the final dates are the date the BMPs were implemented and Feature S-5 was cleaned out; and the anticipated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$3,500

TOTAL

\$170

Compliance History

Customer/Respondent/Owner-Operator:	CN603396102	Crosswinds I Partnership, Ltd.	Classification: AVERAGE	Rating: 2.00
Regulated Entity:	RN105628549	TACARA	Classification: AVERAGE	Site Rating: 3.01
ID Number(s):	EDWARDS AQUIFER		REGISTRATION	13-08091501
	EDWARDS AQUIFER		REGISTRATION	13-08091501A
Location:	NW OF HWY 281 N AND STONE OAK PKWY, SAN ANTONIO, BEXAR COUNTY, TEXAS			
TCEQ Region:	REGION 13 - SAN ANTONIO			
Date Compliance History Prepared:	December 06, 2011			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	December 6, 2006 to December 6, 2011			
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History				
Name:	Heather Brister	Phone:	(254) 761-3034	

Site Compliance History Components

- | | |
|--|-----|
| 1. Has the site been in existence and/or operation for the full five year compliance period? | Yes |
| 2. Has there been a (known) change in ownership/operator of the site during the compliance period? | No |
| 3. If Yes, who is the current owner/operator? | N/A |
| 4. If Yes, who was/were the prior owner(s)/operator(s)? | N/A |
| 5. When did the change(s) in owner or operator occur? | N/A |
| 6. Rating Date: 9/1/2011 Repeat Violator: | NO |

Components (Multimedia) for the Site :

- | | |
|--|-----|
| A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government | N/A |
| B. Any criminal convictions of the state of Texas and the federal government. | N/A |
| C. Chronic excessive emissions events. | N/A |
| D. The approval dates of investigations. (CCEDS Inv. Track. No.) | N/A |
| E. Written notices of violations (NOV). (CCEDS Inv. Track. No.) | N/A |
| F. Environmental audits. | N/A |
| G. Type of environmental management systems (EMSs). | N/A |
| H. Voluntary on-site compliance assessment dates. | N/A |
| I. Participation in a voluntary pollution reduction program. | N/A |
| J. Early compliance. | N/A |
| Sites Outside of Texas | |
| N/A | |

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CROSSWINDS I PARTNERSHIP,
LTD.
RN105628549**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2011-1813-EAQ-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Crosswinds I Partnership, Ltd. ("the Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a commercial development property located northwest of State Highway 281 North and Stone Oak Parkway in San Antonio, Bexar County, Texas (the "Site").
2. The Site adjoins, is contiguous with, surrounds, or is near or adjacent to any water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about September 12, 2011.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirteen Thousand Seven Hundred Fifty Dollars (\$13,750) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Eleven Thousand Dollars (\$11,000) of the administrative penalty and Two Thousand Seven Hundred Fifty Dollars (\$2,750) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Site:
 - a. By October 26, 2010, submitted a Water Pollution Abatement Plan ("WPAP") Modification Application, which includes the Restoration and Stabilization Plan, for WPAP No. 13-08091501 to the TCEQ and on March 1, 2011, the WPAP Modification was approved; and
 - b. By April 29, 2011, removed sediment from Feature S-5, installed silt fencing, and began seeding grass to establish vegetative cover within the disturbed areas.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Site, the Respondent is alleged to have:

1. Failed to obtain approval of a modification to an approved WPAP prior to initiating construction over the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE §§ 213.4(a)(1) and 213.4(j)(1), and WPAP No. 13-08091501, Standard Conditions No. 6, as documented during an investigation conducted on January 10 and 13, 2011. Specifically, the Phase I project proposed in the modification application was under

construction and the proposed Vortechs® units had been constructed and installed prior to approval.

2. Failed to maintain the approved best management practices ("BMPs") and measures to prevent pollutants from entering sensitive features within the Edwards Aquifer Recharge Zone, in violation of 30 TEX. ADMIN. CODE §§ 213.4(k) and 213.5(b)(4)(B)(iii), and WPAP No. 13-08091501, Standard Conditions No. 8, as documented during an investigation conducted on January 10 and 13, 2011. Specifically, the vegetative buffer had been cleared away for the construction of the retaining wall allowing sediment to enter Feature S-5.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Crosswinds I Partnership, Ltd., Docket No. 2011-1813-EAQ-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order:
 - i. Establish vegetative cover in the buffer area with a density of at least 80%;
 - ii. Remove silt fencing once vegetative cover has been established; and
 - iii. Obtain written certification from a Texas Licensed Professional Engineer that the permanent BMPs or measures were constructed as designed in the WPAP.
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

with Ordering Provision Nos. 2.a.i through 2.a.iii. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
San Antonio Regional Office
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, Texas 78233-4480

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Site operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

3/29/12

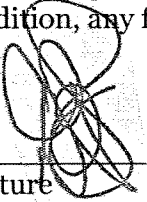
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

2/10/12

Date

DARRON B. CASEY

Name (Printed or typed)
Authorized Representative of
Crosswinds I Partnership, Ltd.

Managing Partner

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.